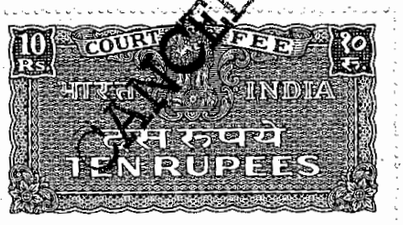

CANCELLED

(3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL WRIT PETITION NO. 738 OF 2001

IN THE MATTER OF :

SOBRAN SINGH
Aged about 35 years
Son of Jahendra Singh
Through: Jahendra Singh
S/O Sultan Singh
(Natural Guardian for petitioner)
R/o Village Chiruli
Thesil Dabra
District Gwalior (M.P.)

P. R. No. 718/01
Presented by Shri Mukesh Thakur
dated 20.7.01

PETITIONER

VERSUS

STATE OF CHHATTISGARH

RESPONDENT

PETITION UNDER ARTICLE 227
OF THE CONSTITUTION OF INDIA

XI-HC-22

(31)

APR

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. No. 738 सन् 2001

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

15.03.2002

Shri Mukesh Sharma, counsel for the petitioner.

Dr.N.K.Shukla, Additional Advocate General for the State.

Heard.

By this writ petition filed under Article 227 of the Constituion of India, petitioner prays for quashing of the impugned order dated 5.1.2001 passed by the VII Additional Sessions Judge, Raipur in S.T.No.418/2000 (State .Vs. Laxmi Bai and others)

This petition has been filed by the father-cum- natural guardian of petitioner. It is stated in the petition that the petitioner is mentally retarded and at the instance of the co-accused one Smt. Lakshmi Bai who is said to be the guardian of Ms. Santoshi Bai, the marriage was solemnized between the petitioner and Santoshi Bai according to the customs. The allegation against the petitioner is that he has kidnapped Santoshi Bai (wife). The petitioner has been taken into custody and he is said to be in jail since 15.9.2000.

[पीछे देखिये

(32)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक CRP.738/ सन् 2001

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

As directed, report of the Medical Officer Central Jail Hospital has been received which shows that the petitioner was admitted in Hospital since 3.1.2002 and during this period the conduct of the accused has been observed

Earlier, the Station House officer, Khamtarai, has sought medical report of petitioner Sobran and the Dr.Sunil Gupta, has opined that mental maturity is not found and the petitioner was advised Psychiatric examination.

Now, Dr.Shukla, learned Addl.Advocate General for the State submits that the petitioner is mentally retarded as per report received.

Section 330 of IPC priovides for release of a lunatic pending investigation or tial.

Section 330 IPC reads as under:

"330. Release of lunatic pending investigation or trial.-

(1) Whenever a person is found under section 328 or section 329,v to be of unsound mind and incapable of making his defence, the Magistrate or Court, as the

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ....CRP-738.... सन् 200 |

.....विरुद्ध.....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

case may be, whether the case is one in which bail may be taken or not, may release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or Court or such Officer as the Magistrate or Court appoints in this behalf.

(2) If the case is one in which, in the opinion of the Magistrate or Court, bail should not be taken, or if sufficient security is not given, the Magistrate or Court, as the case may be shall order the accused to be detained in safe custody in such place and manner as he or it may think fit, and shall report the action taken to the State Government:

Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance

[पीछे देखिये

(34)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr.P. No. 738 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

with such rules as the State Government may have made under the Indian Lunacy Act, 1912 (4 of 1912)."

In view of the aforesaid discussion, the petitioner is directed to be released on furnishing security bond by father or guardian in sum of Rs.5000/- that the petitioner shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance in terms of section 330 IPC. In case if the security is not furnished, then the petitioner shall be detained in safe custody as deemed fit by the Sessions Court .

So far as stay of proceedings pending before the court below is concerned, that shall be considered after release- of the petitioner.

Certified Copy be supplied.

Sd/-
Fakhruddin
Judge

/Rao/

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